

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KEVIN BELCHER,

Plaintiff,

v.

KATHLEEN DRAKULICH, *et al.*,

Defendants.

Case No. 3:20-cv-00408-MMD-CLB

ORDER

Plaintiff Kevin Belcher brings this case under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin, recommending the Court grant Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) and dismiss Plaintiff’s complaint (ECF No. 1-1) with prejudice. (ECF No. 5.) Plaintiff had until October 30, 2020, to file an objection to the R&R, but has not done so. The Court will adopt the R&R in full.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (emphasis in original) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the court “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation”).

Because there is no objection, the Court need not conduct *de novo* review, and is satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends granting

1 Plaintiff's *in forma pauperis* application because Plaintiff cannot pay the filing fee. (ECF
2 No. 5 at 2.) Judge Baldwin also recommends dismissing Plaintiff's complaint with
3 prejudice as amendment would be futile. (*Id.* at 3-4.) The Court agrees with Judge
4 Baldwin. The Court cannot intervene in ongoing state criminal proceedings. *See Herrera*
5 *v. City of Palmdale*, 918 F.3d 1037, 1043-44 (9th Cir. 2019) (stating that the *Younger*
6 doctrine prevents federal courts from intervening with pending state criminal
7 proceedings); *see also Younger v. Harris*, 401 U.S. 37 (1971). Additionally, Defendants
8 are absolutely immune in § 1983 cases. *See Schucker v. Rockwood*, 846 F.2d 1202,
9 1204 (9th Cir. 1988) ("Judges are absolutely immune . . . for judicial acts taken within the
10 jurisdiction of their courts."); *see also Imbler v. Pachtman*, 424 U.S. 409, 427, 430 (1976)
11 (stating that prosecutors are absolutely immune in § 1983 actions when "intimately
12 associated with the judicial phase of the criminal process."). Having reviewed the R&R
13 and the record in this case, the Court will adopt the R&R in full.

14 It is therefore ordered, adjudged, and decreed that Magistrate Judge Carla L.
15 Baldwin's Report and Recommendation (ECF No. 5) is accepted and adopted in its
16 entirety.

17 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF
18 No. 1) is granted.

19 It is further ordered that Plaintiff's complaint (ECF No. 1-1) is dismissed with
20 prejudice.

21 The Clerk of Court is directed to close the case and enter judgement accordingly.

22 DATED THIS 5th Day of November 2020.

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25 _____
26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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